IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Crl.MC.No. 3317 of 2007(B)

(C.C. NO. 2496/2005 OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM).

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PETITIONER/1ST ACCUSED:

PRAVEENKUMAR, AGED 36 YEARS,
S/O.APPU, PANAKKAL HOUSE, JAWAHAR ROAD,
VYTTILA P.O., KOCHI-682 019.

BY ADV. SRI.PEEYUS A.KOTTAM.

RESPONDENT/STATE:

STATE OF KERALA, REPRESENTED BY ASST. SUB INSPECTOR OF POLICE, PANANGAD POLICE STATION, REPRESENTED BY PUBLICL PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN 682 031.(INVESTIGATING OFFICER IN CRIME NO.261/04 OF PANANGAD POLICE STATION).

BY PUBLIC PROSECUTOR SRI. M.S. BREEZ.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/11/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3317 of 2007

Dated this the 7th day of November 2007

O R D E R

The petitioner prays for modification of the condition imposed that his passport must be surrendered before the learned Magistrate as condition for releasing him on bail. He faces allegations under Sections 498A and 420 read with 34 I.P.C. The passport has now been surrendered. The petitioner has to return to his place of employment abroad. The petitioner made an application before the learned Magistrate. The learned Magistrate rejected the said prayer by Annexure A5 order.

2. The learned counsel for the petitioner submits that if the passport is not released, it will cause great hardship, inconvenience and loss to the petitioner. It would affect the life of the petitioner as the only source of his livelihood - his employment, shall comes to termination. In these circumstances, the petitioner prays that the passport may be directed to be released to the petitioner subject to any appropriate conditions:

3. The learned Public Prosecutor only submits that appropriate orders may be passed. It may be insisted that the trial does not prolong unnecessarily for the absence of the petitioner, submits the learned Public Prosecutor.

4. The report of the learned Magistrate was called for. The report shows that the matter stands posted for trial and the case could be completed by 6/12/2007. It is submitted that the case stood posted to 6/11/2007. The complainant could not appear on that date. Bailable warrant has been issued against the petitioner and the matter stands posted to 22/11/2007. The petitioner has to return to his place of employment before 20/11/2007. In these circumstances, the petitioner prays that subject to any appropriate conditions as may be imposed by this court, the petitioner may be permitted to take back the passport and proceed to his place of employment. The petitioner shall report before the court as and when directed, if two months notice were given to the petitioner.

5. Having considered all the relevant inputs, I am satisfied that there can be a direction to the learned Magistrate to return the passport to the petitioner. Appropriate conditions and safeguards can certainly be imposed.

6. In the result, this petition is allowed. The passport of the petitioner surrendered before the learned Magistrate shall be returned to the petitioner on the following terms and conditions:

i) The petitioner shall file a statement before the learned Magistrate that he shall not raise any dispute about his identity in the trial, that is to take place.

ii) The petitioner shall file an application authorising his counsel to represent him under Section 317 Cr.P.C on all dates of trial.

iii) The petitioner shall execute a further bond for Rs.1,00,000/- (Rupees one lakh only) with two solvent sureties undertaking to appear before the learned Magistrate within a period of two months if notice to that effect is given to the learned counsel for the petitioner.

7. If the above conditions are satisfied, the passport shall be released to the petitioner and the petitioner shall be permitted to leave for his place of employment abroad.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007